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**From:** Walts, Alan [walts.alan@epa.gov]  
**Sent:** 5/6/2022 2:52:26 PM  
**To:** April McCormick [aprilm@grandportage.com]; harmon.darrell@epa.gov  
**CC:** skniffen@sagchip.org; Mark Parrish [mark.parrish@pokagonband-nsn.gov]; robertdeschampe@grandportage.com  
**Subject:** RE: EPA finalizes its action on the Minnesota 2022 Clean Water Act Section 303(d) Impaired Waters List

Ms. McCormick –

Thank you for your inquiry. We are working to answer your questions and will respond early next week.

Best,  
Alan

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Alan Walts | Director, Tribal and Multi-media Programs Office | EPA Region 5

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**From:** April McCormick <aprilm@grandportage.com>  
**Sent:** Thursday, May 5, 2022 4:31 PM  
**To:** Walts, Alan <walts.alan@epa.gov>; harmon.darrell@epa.gov  
**Cc:** skniffen@sagchip.org; Mark Parrish <mark.parrish@pokagonband-nsn.gov>; robertdeschampe@grandportage.com  
**Subject:** Fw: EPA finalizes its action on the Minnesota 2022 Clean Water Act Section 303(d) Impaired Waters List

Mr. Walts, Mr. Harmon,

Can you provide an explanation for my questions below for the Agency, directed to Mr. Proto. Please define for the Tribes, the EPA's action of termed 'delay in action' on the single most tangible and direct consultation point heard from the Tribes during the EPAs call on the 2022 303(d) list?

I asserted during our Tribal/EPA Consultation that the State MPCA had received this information from the Bands prior to the State's 303(d) submittal to EPA (referenced in Tribal EPA call an email January 7, 2022 copied into the email at the bottom that you were cc'd on at that time) as other Tribes commented this was in their comments reflected to MPCA, and stated during the call with the EPA.

Miigwech, Thank you,

April McCormick

Secretary/Treasurer

Grand Portage Band

cc: Mark Parrish, Sally Kniffen, NTOC Representatives Region 5

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**From:** Proto, Paul <[proto.paul@epa.gov](mailto:proto.paul@epa.gov)>

**Sent:** Tuesday, May 3, 2022 4:43 PM

**To:** April McCormick

**Cc:** Bobby Deschampe; Margaret Watkins

**Subject:** RE: EPA finalizes its action on the Minnesota 2022 Clean Water Act Section 303(d) Impaired Waters List

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Hi April,

Thank you for your email. EPA's discussion of the Birch Lake deferral in EPA's Minnesota 2022 Decision Document is on pages 18 to 21. As discussed there, EPA will continue to evaluate sulfate concentrations in Birch Lake and its embayments in the Minnesota 2024 and subsequent listing cycles as well as progress made toward potentially resegmenting Birch Lake as appropriate. Also, EPA briefly discusses Birch Lake in Appendix 2 of EPA's Minnesota 2022 Decision Document.

Have a nice evening,

Paul

Paul Proto | Environmental Scientist | U.S. EPA, Region 5, Water Division, Watersheds & Wetlands Branch

77 W. Jackson Blvd., WW-16J | Chicago, IL 60604 | 312-353-8657 (Office) | [proto.paul@epa.gov](mailto:proto.paul@epa.gov)

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**From:** April McCormick <[aprilmc@grandportage.com](mailto:aprilmc@grandportage.com)>

**Sent:** Tuesday, May 3, 2022 11:03 AM

**To:** Proto, Paul <[proto.paul@epa.gov](mailto:proto.paul@epa.gov)>

**Cc:** [robertdeschampe@grandportage.com](mailto:robertdeschampe@grandportage.com); [mwatkins@grandportage.com](mailto:mwatkins@grandportage.com)

**Subject:** Re: EPA finalizes its action on the Minnesota 2022 Clean Water Act Section 303(d) Impaired Waters List

Miigwech Paul,

Initially, I noticed the footnote 1. The agency is delaying action on the Birch Lake MPCA's exclusion of this area. When can we expect the Agency's action regarding the referenced footnote? Is there additional explanation that EPA can provide to the Tribes? Any information would be helpful.

April McCormick

Secretary/Treasurer

Grand Portage Band

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**From:** Proto, Paul <[proto.paul@epa.gov](mailto:proto.paul@epa.gov)>

**Sent:** Tuesday, May 3, 2022 10:01 AM

**Subject:** RE: EPA finalizes its action on the Minnesota 2022 Clean Water Act Section 303(d) Impaired Waters List

CAUTION: This is an external EMAIL. Do not click any links or open any attachments unless you have fully verified the sending address in addition to the name and know the content is safe and valid.

Hi All,

It has come to my attention that the Appendix 1 shared last Friday (4/29) afternoon was missing 5 pages of Category 5, impaired waters at the end of the Appendix. My apologies for this mistake.

Attached is the corrected Appendix 1, date stamped yesterday 5/2/22 and a revised Decision Document which includes the correct Appendix 1. The content of Decision Document and Appendix 2 are unchanged.

*In Summary:*

Appendix 1  
pages of table)

(shared 4/29/22):

Pages 1-50 (missing final 5

Revised Appendix 1

(shared in this email, date stamped 5/2/22):

Pages 1-55

Please let me know if you have any questions.

Have a nice morning,

Paul

**Paul Proto** | Environmental Scientist | U.S. EPA, Region 5, Water Division, Watersheds & Wetlands Branch

77 W. Jackson Blvd., WW-16J | Chicago, IL 60604 | 312-353-8657 (Office) | [proto.paul@epa.gov](mailto:proto.paul@epa.gov)

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copied into bottom of email by April McCormick:

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**From:** Margaret Watkins

**Sent:** Friday, January 7, 2022 11:39 AM

**To:** [miranda.nichols@state.mn.us](mailto:miranda.nichols@state.mn.us)

**Cc:** [helen.waquiu@state.mn.us](mailto:helen.waquiu@state.mn.us); [katrina.kessler@state.mn.us](mailto:katrina.kessler@state.mn.us); Harrington, Bradley (DNR); [Harmon.Darrel@epa.gov](mailto:Harmon.Darrel@epa.gov);

Walts, Alan; April McCormick

**Subject:** Grand Portage Comments regrading MPCAs 2022 303(d) impaired waters list

Dear Ms. Nichols:

Please find below Grand Portage Band of Lake Superior Chippewa comments regarding MPCAs 2022 draft list of impaired waters.

Bob and Dunka Bays on Birch Lake, a Kawishwi River impoundment, must be included on the 2022 impaired waters list due to concentrations of sulfate that persistently exceed the 10 mg/L criterion by more than 25% in

all recent samples. These Bays are both known and documented wild rice waters. Water quality data collected from Bob and Dunka Bays is available from a variety of sources including the MPCA, USFS/USGS, Northeastern Minnesotans for Wilderness, and the 1854 Treaty Authority. Maps have been provided along with previous comments from Grand Portage demonstrating that similar sulfate concentration ranges were found from monitoring conducted by various entities in Bob and Dunka Bays.

The rationale that these Bays cannot be included on the impaired waters list because they do not have unique water identification numbers and therefore cannot be considered separate locations, or segments of the entire Kawishwi River impoundment, named Birch Lake, is a contravention of the Clean Water Act. Certainly MPCA and MN DNR can expeditiously resolve this issue by providing unique identification numbers for waterbody segments that already have unique names within Birch Lake and the Kawishwi River system.

Sincerely,

Margaret Watkins

Grand Portage Water Quality Specialist